

TEACHERS INSURANCE COMPANY

**1 Horace Mann Plaza
Springfield, Illinois 62715**

NAIC COMPANY CODE 22683

**MARKET CONDUCT EXAMINATION REPORT
as of December 31, 2003**

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

**TEACHERS INSURANCE COMPANY
1 Horace Mann Plaza
Springfield, Illinois 62715**

**MARKET CONDUCT
EXAMINATION REPORT
as of
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Prepared by

James T. Axman, CIE

Frederick T. Verny, Jr., AIE, FLMI

Independent Contract Examiners

May 13, 2004

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Dean:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, and claims practices of Teachers Insurance Company's private passenger automobile business, has been conducted. The Company's records were examined at its home office, 1 Horace Mann Plaza, Springfield, Ill. 62715.

The examination covered a one-year period from January 1, 2003 to December 31, 2003.

A report of the examination of Teachers Insurance Company is, herewith, respectfully submitted.

James T. Axman, CIE

Frederick T. Verny, Jr., AIE, FLMI

Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
TEACHERS INSURANCE COMPANY**

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COMPANY PROFILE

Teachers Insurance Company, hereinafter referred to as “the Company,” was incorporated on March 2, 1971 under the laws of the State of Delaware as INA Insurance Company of Delaware. It remained dormant until May 10, 1976, on which date it merged with Teachers Insurance Company of Los Angeles, California. The Company became licensed to do business in the State of Illinois on March 9, 1977. On December 23, 1988, the Company was redomiciled from Delaware to Illinois.

Horace Mann Educators Corporation (HMEC) is an insurance holding company incorporated in Delaware. Through its subsidiaries, HMEC markets and underwrites personal lines or property and casualty and life insurance and retirement annuities, to the nation’s educators through an exclusive sales force of more than 1,000 agents. HMEC’s principal insurance subsidiaries are Horace Mann Insurance Company, Teachers Insurance Company, Horace Mann Life Insurance Company, and Allegiance Insurance Company. HMEC’s business was founded in Springfield, Illinois in 1945 by two Illinois teachers to sell automobile insurance to other teachers within the State of Illinois. In 1968, INA Corporation acquired a 25% interest in HMEC, and completed its acquisition of HMEC in 1975.

Currently, the company is licensed to do business in all states except California, Hawaii, and New Jersey.

The Company has been licensed to do business in Colorado since September 5, 1973. The Company is licensed to write general casualty (excluding liability and risk retention), general property, workers compensation, motor vehicle, accident and health, fidelity and surety, mortgage guaranty, credit, and crop insurance in Colorado.

The Company maintains its home office in Springfield, Illinois.

*As of the calendar year 2003 the Company had reported premium in Colorado of \$7,366,000 for Private Passenger Automobile Insurance, representing a 0.25 % market share in Colorado.

*Data as reported in the 2002 Colorado Insurance Industry Statistical report.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law §10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to Private Passenger Automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2003 to December 31, 2003.

File sampling was based on a review of underwriting and claims files that were systematically selected by using ACL™ software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Underwriting
3. Rating
4. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's Private Passenger Automobile underwriting, rating, and claims practices to determine compliance with the Colorado insurance law as outlined in Exhibit 1.

Exhibit 1

Law	Subject
Section 10-1-128	Fraudulent Insurance Acts.
Section 10-4-413	Records required to be maintained
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-626	Prohibited reasons for nonrenewal or refusal to write auto
Section 10-4-627	Discriminatory standards-proof of financial responsibility
Section 10-4-628	Refusal to write – changes in – cancellation-nonrenewal prohibited
Section 10-4-629	Cancellation-renewal-reclassification
Section 10-4-630	Exclusion of named driver
Section 10-4-632	Reduction in rates for drivers aged 55 or older with drivers education
Section 10-4-633	Certification of policy and notice forms
Section 10-4-706.	Required coverages - complying policies - PIP examination program
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Inter-company arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.

Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course - legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8.	Penalties And Timelines Concerning Division Inquiries And Document Requests
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Insurance Score
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Amended Auto Accident Reparations Act (No Fault) Rules and Regulations
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 5-2-11.	Transition from No-Fault Auto to Tort System.
Regulation 5-2-12.	Automobile Insurance Consumer Protections.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.

Company Operations/Management

The examiners reviewed Company management, implementation, and quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

Complaints

The examiners reviewed the complaint database log maintained by the Division of Insurance as a general guideline to determine complaint activity for the period under examination.

Contract Forms and Endorsements

The following Private Passenger Automobile forms and endorsements were filed for certification with the Colorado Division of Insurance on July 7, 2003: These forms were also reviewed to determine compliance with the Colorado law.

Title	Form
Readable Car Policy	CC-N00007
Readable Car Policy Amendatory Endorsement	CC-N01CO2 (07/03)
Transportation of Students Endorsement	CC-N01003 (05/95)
Association Membership Benefits Endorsement	CC-N06013 (08-96)
Additional Insured Endorsement	CC-N06023 (03/99)
Additional Coverage Endorsement	CC-N06009
Basic Vehicle Policy	CC-B00008
Basic Vehicle Policy Amendatory Endorsement	CC-B01CO1 (07/03)
Additional Insured Endorsement	CC-B06016 (03/99)
Additional Coverage Endorsement	CC-B06008
Association Membership Benefits Endorsement	CC-B06011
Loss Payable Clause	CC-V06015
Driver Exclusion Endorsement	CC-V13001 (05/01)
Personal Effects of Motor homes and Vans	CC-N06006 (01/85)
Stated Amount Insurance	CC-N06005 (01/85)
Non-owner Coverage	CC-N06004
Selection/Rejection UM/PIP	CL-V07CO3 (07/03)
Application form	CL-V17CO1 (07/03)
Temporary Automobile Insurance Identification Card	CL-V57001
Automated Automobile Insurance Identification Card	CL-VJA224 (11/99)
Auto Insurance Identification Card	CL-GJA196 (09/88)
Disclosure Notice	CA-V50CO2
Declarations page	CL-VJA401 (12/88)
Notice of Cancellation	CL-V54CO1
Notice of Nonrenewal	CL-V54CO2
Notice of Conditional Renewal	CL-V54CO2
Notice of Premium increase	CL-V54COP

In-force Business /Cancellations/Non-renewals/Surcharges/PIP Conversion

For the period under examination, systematically selected samples were taken as follows:

Review Lists	Population	Sample Size	Percentage to Population
In-Force Business	1958	50	3%
Cancellations	1740	50	3%
Nonrenewals	60	60	100%
Surcharges	114	50	44%
PIP Conversion	622	50	8%

Rating

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was compared against a sample of in-force policies, rated by coverage selection, to determine compliance with filed base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

Claims

For the period under examination, the examiners systematically selected the following samples to determine compliance with claims handling practices and manual rules:

Review Lists	Population	Sample Size	Percentage to Population
Claims Paid	735	50	7%
Claims Paid - PIP	218	50	23%
Claims Not Paid - CWP	978	50	5%

EXAMINATION REPORT SUMMARY

The examination resulted in five (5) issues arising from the Company's apparent failure to comply with Colorado insurance laws that govern all property and casualty insurers operating in Colorado. These issues involved the following categories:

Company Operations and Management:

In the area of company operations and management one (1) compliance issue is addressed in this report: The issue in this phase is identified as follows:

- **Failure to include some forms in use by the Company on the annual certification listing.**

It is recommended that the Company review its company operations practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

Complaint Handling:

In the area of complaint handling, no compliance issues are addressed in this report.

Underwriting:

In the area of underwriting, two (2) issues are addressed in this report. Issues arise from Colorado insurance law requirements that must be complied with whenever policies are issued, canceled, rejected, non-renewed, or surcharged. The issues in this phase are identified as follows:

- **Failure, in some cases, to offer a named driver exclusion.**
- **Failure, in some cases, to correctly apply a three (3) year experience period, in surcharging policies, which requires at least one incident occur within a fifteen (15) month period immediately preceding the next renewal date**

It is recommended that the Company review its underwriting practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as to each issue addressed.

Rating:

In the area of rating, no compliance issues are addressed in this report.

Claim Practices:

In the area of claim practices, two (2) compliance issues are addressed in this report. Issues arise from Colorado insurance law requirements dealing with the fair and equitable settlement of claims, claims handling practices, payment of PIP claim benefits, and the timeliness and accuracy of claim payments. The issues in this phase are identified as follows:

- **Delay, in some cases, in the payment of PIP benefits.**
- **Failure, in some cases, to pay claims accurately.**

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as to each issue addressed.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

TEACHERS INSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

PERTINENT FACTUAL FINDINGS

COMPANY OPERATIONS

Issue A: Failure to include some forms in use by the Company on the annual certification listing.

Section 10-4-725(1), C.R.S., Certification of forms, states in part:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted by July 15, 1993 and not later than July 1 of each subsequent year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any NEW policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one (31) days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

Section 10-4-633, Certification of policy and notice forms. (Effective July 1, 2003)

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium

increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(3) The commissioner shall have the power to examine and investigate insurers authorized to conduct business in Colorado to determine whether automobile policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner comply with the certification of the organization and statutory mandates.

Additionally, Colorado Regulation 1-1-6. Concerning the Elements of Certification for Accident and Health forms, Automobile Private Passenger Forms, and Claims-made Liability Forms, as promulgated under the authority of Section 10-1-109, C.R.S., states in part:

III. Rules

A. Definitions

1. "Annual Report for automobile private passenger insurance" shall mean a list of all automobile private passenger policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of reductions in coverage and any other such forms as requested by the commissioner currently in use and issued or delivered to any policyholder in Colorado, including the titles of the programs or products affected by the forms.

In the review of the forms certification listing filed with the Division of Insurance for the period under examination, and in comparison to those forms being used by the Company in its underwriting operations, it was noted that two (2) forms were not included on the listing. Colorado insurance law requires that the Company submit a complete annual certification report listing any form, disclosure, endorsement or rider delivered to any policyholder in Colorado. Since these forms were omitted, the annual certification would therefore be considered incomplete with further implications that the Company was using non-certified forms during the period under examination.

The 2 Forms relating to this issue are as follows:

- CL-V07CO7 (edition 06/03) – Colorado Pip Deletion Form
- UM Rejection form – “Important Coverage Offer” (no form # found in policy.) The Company uses this form as an individualized letter adjunct to renewal bills with the coverage selection component included in the letter.

Recommendation # 1:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-725, C.R.S. and Section 10-4-633, C.R.S., and Colorado Regulation 1-1-6. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has filed a complete annual certification which includes all forms currently being used and has implemented necessary changes in order to ensure compliance with Colorado insurance law.

PERTINENT FACTUAL FINDINGS

UNDERWRITING

Issue B: Failure, in some cases, to correctly apply a three (3) year experience period, in surcharging policies, which requires at least one incident occur within a fifteen (15) month period immediately preceding the next renewal date.

Colorado Regulation 5-2-3 [As amended effective 05/01/2002]. Auto Accident Reparations Act (No-Fault) Rules And Regulations, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue under the authority of Sections 42-1-204, 104-704, 10-4-718, 10-4-719.7, and 10-1-109, C.R.S. states, in part:

3. Application of time limitations.

In reviewing protests under §10-4-720, C.R.S., the Division of Insurance will apply the following time limitations:

a. If the insurer bases its action upon the fact that an insured has been involved in an accident which resulted in payment under the policy and/or has been convicted of a motor vehicle violation, the insurer may base its action on convictions or accidents which occurred during the thirty-six (36) month period immediately preceding the date of the proposed action for that individual insured under the policy. However, in case of non-renewals, increase in premiums, or reduction in coverage, in order to take action upon incidents occurring during this thirty-six (36) month period, at least one (1) incident must have occurred during the fifteen (15) month period immediately preceding the next renewal date for each individual upon whom the proposed action is being attempted.

Cancellations are subject to the restrictions set forth in §10-4-602, C.R.S.

b. An insurer may exceed the fifteen (15) month period if such renewal is the first opportunity to underwrite an additional insured, i.e., new driver in household. Surcharge or merit rating changes may only be made on the policy renewal date.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Surcharges

Population	Sample Size	Number of Exceptions	Percentage to Sample
114	50	3	6%

An examination of fifty (50) policies surcharged, representing 44% of those policies surcharged by the Company during the examination period, showed three (3) exceptions (or 6% of the sample) wherein the Company failed to correctly apply a three-year experience period in surcharges as required by Colorado insurance law.

Recommendation #2:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Colorado Regulation [amended] 5-2-3. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its underwriting guidelines pertaining to policy surcharges to require at least one incident within a fifteen (15) month period immediately preceding the next renewal date and implemented necessary changes in order to ensure compliance with Colorado insurance law.

Issue C: Failure, in some cases, to offer a named driver exclusion.

Section 10-4-719.7, C.R.S. Refusal to write, changes in, cancellation, or non-renewal of policies prohibited, states, in part:

(b) (I) No insurer shall refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.

(II) An insurer shall offer to exclude any person by name pursuant to section 10-4-721 in the household if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.

Section 10-4-721, C.R.S., Exclusion of named driver, states, in part:

(1) In any case where an insurer is authorized under this part 7 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, the insurer shall in lieu of cancellation, non-renewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the cancellation or non-renewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.

Section 10-4-628, Refusal to write - changes in - cancellation - nonrenewal of policies prohibited.

(1) No insurer shall cancel; fail to renew; refuse to write; reclassify an insured under; reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner; or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy because the applicant, insured, permissive user, or any resident of the household of the applicant or insured has:

(a) Had an accident or accidents that are not the fault of such named applicant, insured, household member, or permissive user;

(b) Had a license revoked pursuant to section 42-2-125 (1) (n), C.R.S., had a license suspended pursuant to section 42-2-127.5, C.R.S., or been denied a license pursuant to section 42-2-104 (3) (f), C.R.S., based upon a conviction or adjudication under section 18-4-501 (2) or 18-4-509 (2), C.R.S.

(2) (a) (I) No insurer shall cancel; fail to renew; reclassify an insured under; reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner; or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy solely because the insured person has been convicted of an offense related to the failure to have in effect compulsory motor vehicle insurance or because such person has been denied issuance of a motor vehicle registration for failure to have such insurance.

(II) Unless actuarial justification in support of the insurer's action that has been filed with the commissioner demonstrates that there is an increase in risk, no insurer shall refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan based solely upon:

(A) The fact that the applicant had no prior insurance;

(B) The identity of the applicant's prior insurer; or

(C) The applicant's prior type of coverage, including assigned risk or residual market coverage or any plan other than a preferred plan.

(III) An insurer may use industry-wide data in its actuarial justification under subparagraph (II) of this paragraph (a).

(IV) An insurer shall not refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan solely because the applicant had no prior insurance if the applicant was not required to have insurance under section 10-4-620 or under a similar law in another state.

(b) (I) An insurer shall not refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.

(II) An insurer shall offer to exclude any person in a household by name pursuant to section 10-4-629 if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.

(III) An insurer renewing a policy pursuant to subparagraph (II) of this paragraph (b) shall include, as part of such renewal, a written notice naming the party specifically excluded from coverage.

(2) An insured who believes the provisions of subsection (1) or (2) of this section have been violated shall have the right to file a protest with the commissioner pursuant to this section.

Section 10-4-627, Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.

(1) An insurer shall not:

(a) Cancel or non-renew, or increase the premium of, a policy of insurance on a motor vehicle used by any resident of the household of the named insured solely because of convictions for traffic violations that resulted in less than seven points being assessed under the point system schedule set forth in section 42-2-127 (5), C.R.S., resulting from violations while in the course of employment while the insured is driving a motor vehicle used primarily as a public or livery conveyance or licensed as a commercial vehicle; or

(b) Add a surcharge to the policy premium of an insured or a family member of an insured or other person living in the same household as an insured in a manner that results in an excessive or unfairly discriminatory premium pursuant to section 10-4-403.

(2) This section shall not be construed to limit or in any manner restrict an insurer from cancelling or refusing to issue or renew a policy of insurance or from increasing the premium of an insured on a motor vehicle used by him or her for commercial purposes or from reclassifying an insured for traffic violations received by the insured while using a motor vehicle for commercial purposes.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile non-renewals

Population	Sample Size	Number of Exceptions	Percentage to Sample
60	60	3	5%

An examination of sixty (60) policies non-renewed, representing 100% of those policies non-renewed by the Company during the examination period, showed three (3) exceptions (or 5% of the sample) wherein the Company failed to offer a named driver exclusion as required by Colorado insurance law.

Recommendation #3:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-719.7, 10-4-721, 10-4-627, and 10-4-628, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has offered a named driver exclusion in those nonrenewals warranted and implemented necessary changes in order to ensure compliance with Colorado insurance law.

PERTINENT FACTUAL FINDINGS

CLAIMS PRACTICES

Issue D: Delay, in some cases, in the payment of PIP benefits.

Section 10-4-708 C.R.S., Prompt payment of direct benefits, provides, in part:

(1) Payment of benefits under the coverages enumerated in section 10-4-706(1)(b) to (1)(e) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation.

Additionally, Amended Regulation 5-2-8 [Amended and effective September 1, 2000], Timely Payment of Personal Injury Protection Benefits, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to §§10-1-109, 10-4-704, 10-4-708(1.3), and 10-3-1110(1), C.R.S.

Section 3. Rule

B. Prompt Payment of PIP Benefits

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in §10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto PIP Claims Paid

Population	Sample Size	Number of Exceptions	Percentage to Sample
218	50	24	48%

An examination of fifty (50) PIP paid claim files, representing 23% of all PIP claim files paid by the Company during the examination period, showed twenty-four (24) exceptions (48% of the sample) wherein the Company failed to pay at least one PIP medical bill in each file within the 30 day statutory standard as required by Colorado insurance law.

Recommendation # 4:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-708, C.R.S. and Colorado Amended Regulation 5-2-8. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

Issue E: Failure, in some cases, to pay claims accurately.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices:

- (VI) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto claims paid

Population	Sample Size	Number of Exceptions	Percentage to Sample
735	50	7	14%

An examination of fifty (50) total loss claim files, representing 7% of all claims paid by the Company during the examination period, showed seven (7) exceptions (14% of the sample) wherein the Company failed to pay claims accurately as required by Colorado insurance law.

The incidence of error for this handling issue is further defined by the following table:

Description	# of Exceptions
Subrogation Recovery without reimbursement of insured's deductible: <ul style="list-style-type: none"> Recovery of 45% without reimbursement of \$250 deductible or \$112.50 Recovery of 52% without reimbursement of \$250 deductible or \$130.00 	2
Total loss claims based on the following instances: <ul style="list-style-type: none"> Overpayment of \$35.17 sales tax miscalculation @8.15% 3 instances where sales tax was paid on owner retained salvage. Overpayment of \$49.24 due to miscalculation of total settlement. 	5

Recommendation # 5:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-3-1104, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling practices and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

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